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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,690	03/11/2004	Lester Derbis	20556-74748	6198

23643 7590 08/10/2005

BARNES & THORNBURG  
11 SOUTH MERIDIAN  
INDIANAPOLIS, IN 46204

EXAMINER

JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/798,690

Applicant(s)

DERBIS ET AL.

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

*DETAILED ACTION*

*Drawings*

The replacement drawing sheets were received on May 20, 2005. The Examiner approves these drawing sheets.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,789,834 to Schlegel. Schlegel (Fig. 2) discloses a drivable hinge useable with a flap (30) of a motor vehicle, the hinge including a lower link bracket (70, 72) to be secured to the vehicle body, an upper link bracket (44) to be secured to the flap, and pivoting links (46, 132, 80) connected between the upper and lower brackets, the driveable hinge comprising;

a driving arm (108) having a proximal end and a distal end, the driving arm being pivotal about the proximal end (66), a driver (not shown) configured to drive the driving arm about its proximal end, a track (42) to be carried by the flap and the distal end (112) of the driving arm being coupled to the track, the distal end of the driving arm moves along the as the driving arm is pivoted about its proximal end.

As to claims 2-6, 10-14, 18 and 19, Pickering discloses that the driver is a motor (col. 3, line 35) having an output shaft (174) formed of gears (176, 178) and a power shaft (154) coupled to the proximal end of the driving arm which is provided at a lower bracket (64) along an intersecting axis thereof. As shown in Figs. 2 and 3, the track is in the form of a rod supported by end brackets (38, 40) defining a sliding channel at the upper link bracket as an extension of the upper link bracket, wherein a corresponding bearing or sliding block (120) attached at the distal end of the driving arm is coupled to the sliding channel and movable there along at different positions.

As to claims 7, 8, 15 and 16, as seen in Fig. 2, the drivable hinge device can be configured to be placed in a central region of the flap in a longitudinal direction of the motor vehicle.

### ***Response to Applicant's Arguments***

In response to applicant's amendment filed May 20, 2005 and the amendment to the claim(s), # 2,845,299 to Pickering has newly been discovered, cited and applied to meet the structural limitations as set forth in applicant's claims. Accordingly, claims 1-19 are found to be unpatentable over Pickering.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

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ALJ

Raymond 1/2



approved by Examiner  
8/5/05  
CJ

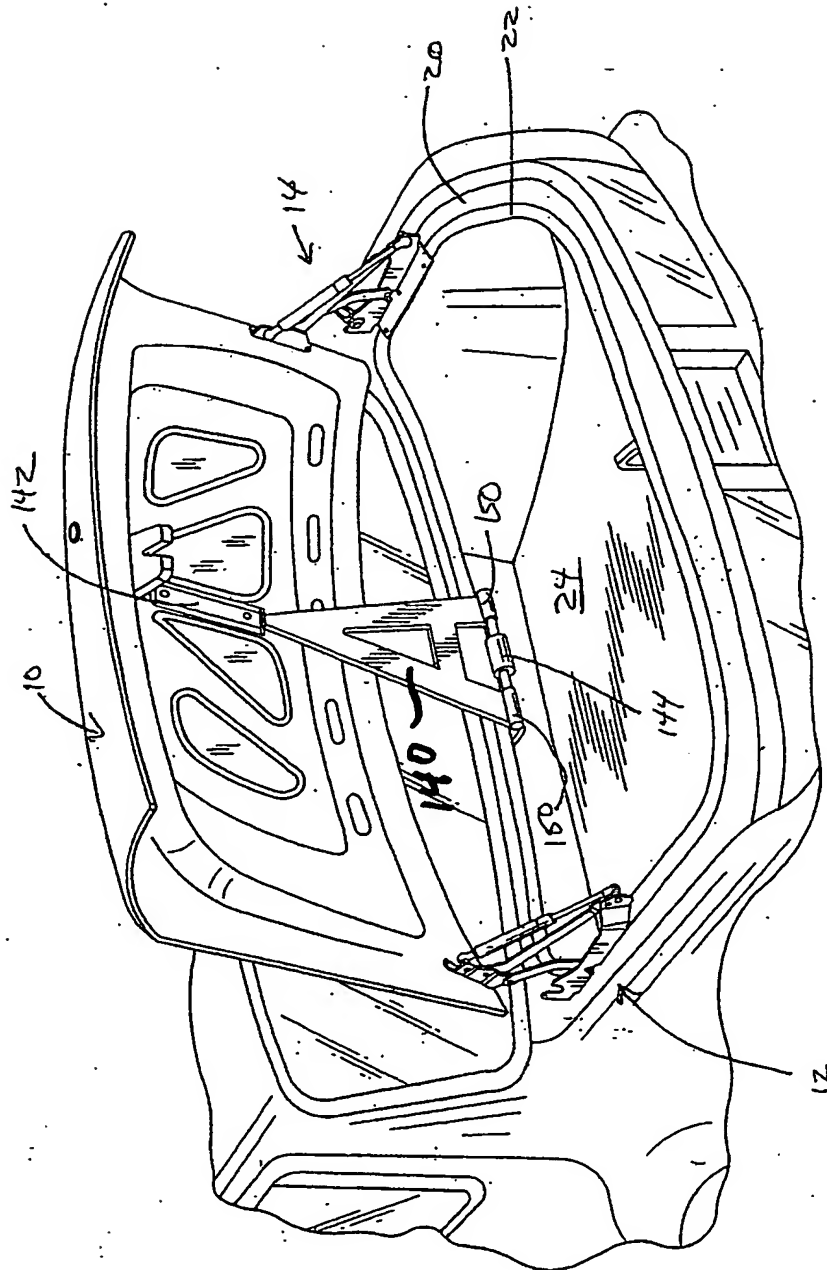


Fig. 2

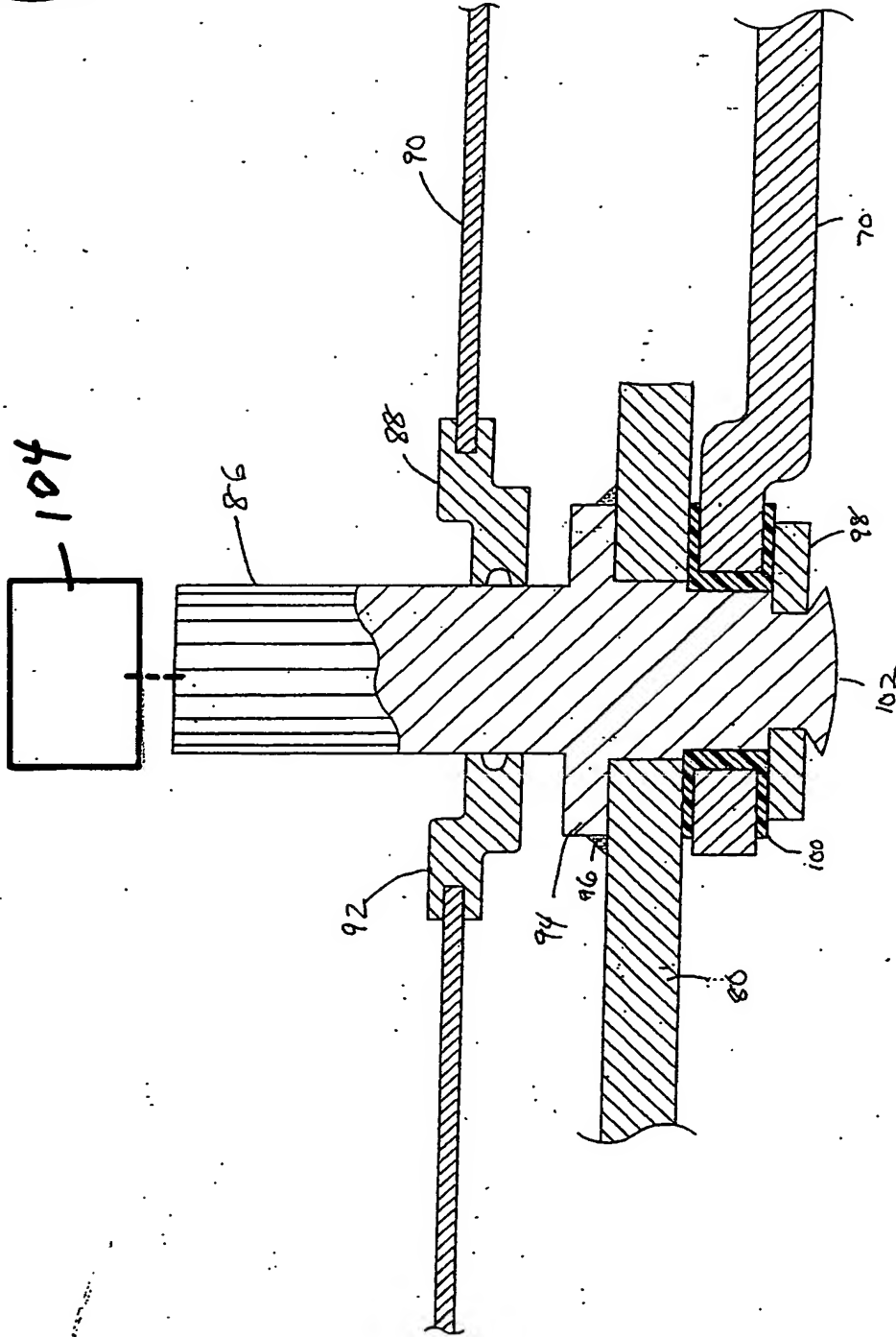


Fig. 9